

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TIMOTHY FRANCIS RIPP,

Plaintiff,

v.

OPINION and ORDER

10-cv-259-bbc

ROBYN BRADLEY,

Defendant.

In an order entered July 30, 2010, I screened plaintiff Timothy Francis Ripp's complaint and concluded that he could proceed on his claim that defendant Robyn Bradley denied him access to the courts by refusing to set up conference calls but dismissed his claims that the remaining defendants were involved and also refused to provide a legal loan. I also recorded a "strike" under 28 U.S.C. § 1915(g) against plaintiff. Plaintiff has filed a letter mistakenly stating that Magistrate Judge Stephen L. Crocker gave him the strike and asking that I "dismiss" the strike. This letter is properly construed as a motion to reconsider the order recording the strike, which will be denied. I am not persuaded that it was error.

Under the Prison Litigation Reform Act, a prisoner may not pursue an action without prepaying the filing fee if he has "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed

on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(g). This court keeps track of previous dismissals by recording a “strike” anytime any *claim* is dismissed for any of the reasons listed, but this is because the Court of Appeals for the Seventh Circuit has held that this is the proper way to assess strikes. George v. Smith, 507 F.3d 605, 607-08 (7th Cir. 2007). Because plaintiff’s claim that prison officials violated his right of access to the courts by failing to give him legal loans was dismissed for failure to state a claim upon which relief may be granted, plaintiff gets a strike.

ORDER

IT IS ORDERED that plaintiff’s motion for reconsideration of the order recording a strike against plaintiff, dkt. #19, is DENIED.

Entered this 29th day of September, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge